

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION

UNITED STATES OF AMERICA)	<u>F O U R T H</u>
)	<u>S U P E R S E D I N G</u>
)	<u>I N D I C T M E N T</u>
v.)	
)	Case No. 4:10-cr-70
)	
MEDICINE BIRD MORSETTE;)	Violations: 18 U.S.C. §§ 2, 1152, 1153,
DUSTIN MORSETTE,)	1512(b)(1), 1512(b)(3), 1591(a), 1591(b)(1),
a/k/a DUSTY JAMES MORSETTE;)	2241(a)(1), 2241(c), 2242(1), 2242(2)(B),
FRANCENE KELLY AZURE; and)	2243(a), and 2260A; and 21 U.S.C. § 846,
DAKOTA JORE, a/k/a "MINI,")	861(a)(1), and 861(b)
a/k/a "PITBULL")	

INTRODUCTION

The Grand Jury Finds:

1. Beginning in or about 2008, DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, established and began to organize a criminal street gang named the Black Disciples. The purpose of the criminal street gang was to make money for DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, and other members of the gang through drug trafficking, prostitution, and other illegal acts.

2. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, recruited juveniles and adults residing on the Fort Berthold Indian Reservation to become members and associates of the criminal street gang. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, provided drugs and alcoholic beverages to persons he recruited for gang membership. Some gang members and associates were identified as members through

tattoos and burn marks affixed to their bodies by DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, and others.

3. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE established and enforced rules that governed the recruitment, initiation, and activities of the gang members and associates. Those rules included, among other things, that: (a) recruits were initiated into the gang by physical or sexual assault; (b) members and associates were required to perform acts, including sexual acts, prostitution, and drug distribution, as directed by DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE; (c) members and associates were required to pay money to DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE; and, (d) members and associates were required to recruit other persons into the gang as directed by DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE.

4. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, utilized a residence located at 25 Lake Street, Sanish Hill, New Town, North Dakota, as a base of operations for the criminal street gang.

5. As part of the establishment, operation and maintenance of the criminal street gang, DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, and others, known and unknown to the grand jury, engaged in criminal activity as set forth below.

COUNT ONE

Aggravated Sexual Abuse

The Grand Jury Charges:

From in or about October 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly caused and attempted to cause another person, namely, R.U., to engage in a sexual act, that is, contact between the penis and the anus, by using force against that other person, the other person being a child who had attained the age of twelve (12) years but had not attained the age of sixteen (16) years, and who was at least four (4) years younger than DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

In violation of Title 18, United States Code, Sections 2241(a)(1), 2241(c), and 1153.

COUNT TWO

Sexual Abuse of a Minor

The Grand Jury Further Charges:

From in or about October 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly engaged and attempted to engage in a sexual act, that is, contact between the penis and the anus, with another person, namely, R.U., who had attained the age of twelve (12) years but had not attained the age of sixteen (16) years and who was at least four (4) years younger than DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

In violation of Title 18, United States Code, Sections 2243(a) and 1153.

COUNT THREE

Sexual Abuse of a Minor

The Grand Jury Further Charges:

From in or about October 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly engaged and attempted to engage in a sexual act, that is, contact between the penis and the vulva, with another person, namely, R.U., who had attained the age of twelve (12) years but had not attained the age of sixteen (16) years and who was at least four (4) years younger than DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

In violation of Title 18, United States Code, Sections 2243(a) and 1153.

COUNT FOUR

Sexual Abuse of a Minor

The Grand Jury Further Charges:

From in or about October 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly engaged and attempted to engage in a sexual act, that is, contact between the penis and the vulva, with another person, namely, R.U., who had attained the age of twelve (12) years but had not attained the age of sixteen (16) years and who was at least four (4) years younger than DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

In violation of Title 18, United States Code, Sections 2243(a) and 1153.

COUNT FIVE

Sexual Abuse

The Grand Jury Further Charges:

From in or about August 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly engaged in and attempted to engage in a sexual act, that is, contact between the penis and the vulva, with another person, namely, P.D., at a time when the other person was physically incapable of declining participation in, and communicating an unwillingness to engage in, that sexual act;

In violation of Title 18, United States Code, Sections 2242(2)(B) and 1153.

COUNT SIX

Sexual Abuse of a Minor

The Grand Jury Further Charges:

From in or about August 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly engaged in and attempted to engage in a sexual act, that is, contact between the penis and the vulva, with another person, namely, P.D., who had attained the age of twelve (12) years but had not attained the age of sixteen (16) years and who was at least four (4) years younger than DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

In violation of Title 18, United States Code, Sections 2243(a) and 1153.

COUNT SEVEN

Sexual Abuse

The Grand Jury Further Charges:

From in or about August 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, caused and attempted to cause another person, namely, S.H., to engage in a sexual act, that is, the penetration, however slight, of the genital opening of another by hand and finger with an intent to abuse, humiliate, harass, degrade, and arouse and gratify the sexual desire of any person, by threatening and placing that person in fear, other than by threatening and placing that other person in fear that any person will be subjected to death, serious bodily injury, and kidnapping;

In violation of Title 18, United States Code, Sections 2242(1) and 1153.

COUNT EIGHT

Sexual Abuse of a Minor

The Grand Jury Further Charges:

From in or about August 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly engaged in and attempted to engage in a sexual act, that is, the penetration, however slight, of the genital opening of another by hand and finger with an intent to abuse, humiliate, harass, degrade, and arouse and gratify the sexual desire of any person, with another person, namely, S.H., who had attained the age of twelve (12) years but had not attained the age of sixteen (16) years and who was at least four (4) years younger than DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

In violation of Title 18, United States Code, Sections 2243(a) and 1153.

COUNT NINE

Sexual Abuse

The Grand Jury Further Charges:

From in or about August 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

MEDICINE BIRD MORSETTE,

an Indian, knowingly engaged in and attempted to engage in a sexual act, that is, contact between the penis and the vulva, with another person, namely, “child 4,” at a time when the other person was physically incapable of declining participation in, and communicating an unwillingness to engage in, that sexual act;

In violation of Title 18, United States Code, Sections 2242(2)(B) and 1153.

COUNT TEN

Sexual Abuse of a Minor

The Grand Jury Further Charges:

From in or about August 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

MEDICINE BIRD MORSETTE,

an Indian, knowingly engaged in and attempted to engage in a sexual act, that is, contact between the penis and the vulva, with another person, namely, “child 4,” who had attained the age of twelve (12) years but had not attained the age of sixteen (16) years and who was at least four (4) years younger than MEDICINE BIRD MORSETTE;

In violation of Title 18, United States Code, Sections 2243(a) and 1153.

COUNT ELEVEN

Commission of Federal Sex Offense by Registered Sex Offender

The Grand Jury Further Charges:

From in or about August 2009 until in or about March 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

MEDICINE BIRD MORSETTE,

an Indian, being required by Federal and other law to register as a sex offender, committed a felony offense involving a minor under Title 18, United States Code, Sections 2242 and 2243, as alleged and incorporated in Counts Nine and Ten of this Indictment;

In violation of Title 18, United States Code, Section 2260A.

COUNT TWELVE

Aggravated Sexual Abuse by Force

The Grand Jury Further Charges:

From in or about December 2009 until in or about April 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly caused another person, namely, A.R., to engage in a sexual act, that is, contact between the penis and anus, by using force against that other person;

In violation of Title 18, United States Code, Sections 2241(a)(1) and 1153.

COUNT THIRTEEN

Aggravated Sexual Abuse by Force

The Grand Jury Further Charges:

From in or about December 2009 until in or about April 2010, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly caused another person, namely, A.R., to engage in a sexual act, that is, contact between the penis and anus, by using force against that other person;

In violation of Title 18, United States Code, Sections 2241(a)(1) and 1153.

COUNT FOURTEEN

Sexual Abuse of a Minor

The Grand Jury Further Charges:

From in or about September 2007 until in or about 2008, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly engaged in a sexual act, that is, contact between the penis and the vulva, with another person, namely, A.W., who had attained the age of twelve (12) years but had not attained the age of sixteen (16) years and who was at least four (4) years younger than DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

In violation of Title 18, United States Code, Sections 2243(a) and 1153.

COUNT FIFTEEN

Attempted Sexual Abuse of a Minor

The Grand Jury Further Charges:

From in or about September 2007 until in or about 2008, in the District of North Dakota, in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly attempted to engage in a sexual act, that is, contact between the penis and the anus, with another person, namely, A.W., who had attained the age of twelve (12) years but had not attained the age of sixteen (16) years and who was at least four (4) years younger than DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

In violation of Title 18, United States Code, Sections 2243(a) and 1153.

COUNT SIXTEEN

Conspiracy to Possess With Intent to Distribute and Distribute Marijuana

The Grand Jury Further Charges:

From in or about September 2009 and continuing through June 2010, in the
District of North Dakota,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE, and
FRANCENE KELLY AZURE

knowingly and intentionally combined, conspired, confederated, and agreed together with
others, both known and unknown to the grand jury, to possess with intent to distribute and
distribute marijuana, a Schedule II controlled substance, in violation of Title 21, United
States Code, Sections 841(a)(1) and 841(b)(1)(D).

Overt Acts

In furtherance of this conspiracy and to effect and accomplish the objects of it, one
or more of the conspirators committed the following overt acts:

1. It was a part of said conspiracy that the defendants and others would and
did possess with intent to distribute and did distribute marijuana, a Schedule II controlled
substance, within the Fort Berthold Indian Reservation in the State of North Dakota;
2. It was further a part of said conspiracy that the defendants and others would
and did attempt to conceal their activities;

3. It was a further part of said conspiracy that the defendants and others would and did use United States currency in their drug transactions;

4. During the course of said conspiracy DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, FRANCENE KELLY AZURE, and others performed certain overt acts, including the following:

a. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, stored, maintained, and packaged marijuana at property on Lake Street, New Town, North Dakota;

b. FRANCENE KELLY AZURE transported, carried, weighed, measured, and packaged marijuana at property on Lake Street, New Town, North Dakota;

c. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, and FRANCENE KELLY AZURE knowingly provided and distributed marijuana to others;

d. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE recruited juveniles and adults to be part of a criminal street gang named the Black Disciples to further the distribution of marijuana. In so doing, DUSTIN MORSETTE, a/k/a DUSTY MORSETTE provided and offered to provide drugs and alcohol to persons he recruited for the criminal street gang;

e. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE, and other conspirators affixed tattoos to some of the persons recruited into the criminal street gang to identify roles and membership in the conspiracy;

f. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE established and enforced rules that governed the recruitment, initiation, and activities of the criminal street gang members and associates. Those rules included, among other things, that (a) recruits were initiated into the gang by physical or sexual assault; (b) members and associates were required to perform acts, including sexual acts, prostitution, and drug distribution, as directed by DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE; (c) members and associates were required to pay money to DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE; and, (d) members and associates were required to recruit other persons into the gang as directed by DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

g. DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE provided prescription medication and pills to FRANCENE KELLY AZURE for bringing persons under 18 years of age to property on Lake Street, New Town, North Dakota;

h. Other persons did possess and distribute marijuana, count money and prescription pills, and roll marijuana joints at the request of DUSTIN MORSETTE, a/k/a DUSTY JAMES MORSETTE;

In violation of Title 21, United States Code, Section 846.

COUNT SEVENTEEN

Employment or Use of Person Under 18 Years of Age in Drug Operations

The Grand Jury Further Charges:

From in or about September 2009 and continuing through June 2010, in the
District of North Dakota,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE, and
FRANCENE KELLY AZURE

were at least eighteen years of age and knowingly and intentionally employed, hired,
used, persuaded, induced, and enticed a person under eighteen years of age, namely, E.L.,
to violate Title 21, United States Code, Sections 841(a)(1) and 846;

In violation of Title 21, United States Code, Sections 861(a)(1) and 861(b), and
Title 18, United States Code, Section 2.

COUNT EIGHTEEN

Employment or Use of Person Under 18 Years of Age in Drug Operations

The Grand Jury Further Charges:

From in or about September 2009 and continuing through June 2010, in the
District of North Dakota,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE, and
FRANCENE KELLY AZURE

were at least eighteen years of age and knowingly and intentionally employed, hired,
used, persuaded, induced, and enticed a person under eighteen years of age, namely, J.W.,
to violate Title 21, United States Code, Sections 841(a)(1) and 846;

In violation of Title 21, United States Code, Sections 861(a)(1) and 861(b), and
Title 18, United States Code, Section 2.

COUNT NINETEEN

Employment or Use of Person Under 18 Years of Age in Drug Operations

The Grand Jury Further Charges:

From in or about September 2009 and continuing through June 2010, in the
District of North Dakota,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE, and
FRANCENE KELLY AZURE

were at least eighteen years of age and knowingly and intentionally employed, hired,
used, persuaded, induced, and enticed a person under eighteen years of age, namely, G.B.,
to violate Title 21, United States Code, Sections 841(a)(1) and 846;

In violation of Title 21, United States Code, Sections 861(a)(1) and 861(b), and
Title 18, United States Code, Section 2.

COUNT TWENTY

Tampering with a Witness

The Grand Jury Further Charges:

From in or about December 2010 and continuing through January 2011, in the District of North Dakota, and elsewhere,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE, and
DAKOTA JORE, a/k/a “MINI,” a/k/a “PITBULL,”

individually and by aiding, abetting, counseling, commanding, inducing, and procuring commission of the crime, knowingly and corruptly persuaded and attempted to persuade A.R., and knowingly engaged in misleading conduct toward A.R., with the intent to:

(a) influence and prevent A.R.’s testimony in an official proceeding, and (b) hinder and prevent the communication of information relating to the commission and possible commission of a Federal offense, that is, aggravated sexual abuse by force as alleged in Counts Twelve, Thirteen, and Twenty-One of this Fourth Superseding Indictment, to a law enforcement officer and judge of the United States;

In violation of Title 18, United States Code, Sections 2, 1512(b)(1), and 1512(b)(3).

COUNT TWENTY-ONE

Sex Trafficking by Force or Coercion

The Grand Jury Further Charges:

From in or about September 2009 and continuing through in or about April 2010,
in Indian country, and within the exclusive jurisdiction of the United States,

DUSTIN MORSETTE,
a/k/a DUSTY JAMES MORSETTE,

an Indian, knowingly recruited, enticed, harbored, transported, provided, obtained, and
maintained by any means a person, namely, A.R., a non-Indian, knowing, and in reckless
disregard of the fact, that means of force, threats of force, coercion, and any combination
of such means, would be used to cause the person to engage in a commercial sex act;

In violation of Title 18, United States Code, Sections 1591(a), 1591(b)(1), and
1152.

A TRUE BILL:

/s/ Grand Jury Foreperson
Foreperson

/s/ Timothy Q. Purdon
TIMOTHY Q. PURDON
United States Attorney

RLV:rab